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EXAMINER
ANDERSON, JOHN A

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *27 October 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5 and 7-39* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-3,5 and 7-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date *10/24/2007*.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

1.   The information disclosure statement dated 10/24/2007 has been considered.

Response to Amendment

2.   In the amendment filed 10/27/2008, the following has occurred: Claims 1-3, 5,

and 7-39 are pending and are presented for examination.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by

another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2)

of such treaty in the English language.

4.   Claims 1-2,5,7-10,12-15,17-21,25-27,29-31,33-35 are rejected under 35

U.S.C. 102(e) as being anticipated by Helweg M.W. (US Pat .No. 7461023).

5.   As regards claims 1, 25 and 39, Helweg discloses a method for determining and

displaying trading trends comprising the steps of:

- obtaining market information for an investment underlying one or more options

  for a time period, wherein the market information comprises at least (a) a first set

  of market data for the underlying investment based on a series of consecutive

  first time intervals within the time period comprising a first opening value and a

  first closing value for each consecutive first time interval, (b) a second set of

  market data for the underlying investment based on a series of consecutive

  second time intervals within the time period comprising a second opening value

  and a second closing value for each consecutive second time interval, and (c)

  the first time interval is not equal to the second time interval; [column 1 lines 49-

  61]

- calculating a first opening value trend for the first time intervals using a market

  trend indicator and the first opening values for the underlying investment, and a

  second opening value trend for the second time intervals using the market trend

  indicator and the second opening values for the underlying investment; [column 2

  lines 29-36]

- calculating a first closing value trend for the first time intervals using the market

  trend indicator and the first closing values for the underlying investment, and a

  second closing value trend for the second time intervals using the market trend

  indicator and the second closing values for the underlying investment; [column 2

lines 29-36]

- displaying a first visual favorable/unfavorable trade indicator for the first time
  intervals based on a comparison of the first opening value trend to the first
  closing value trend for the underlying investment, wherein the first visual
  favorable/unfavorable trade indicator is a first color whenever the first closing
  value trend is greater than the first opening value trend and the first visual
  favorable/unfavorable trade indicator is a second color whenever the first closing
  value trend is lower than the first opening value trend; and [column 2 lines 50-56]

- displaying a second visual favorable/unfavorable trade indicator for the second
  time intervals based on a comparison of the second opening value trend to the
  second closing value trend for the underlying investment, wherein the second
  visual favorable/unfavorable trade indicator is the first color whenever the second
  closing value trend is greater than the second opening value trend and the
  second visual favorable/unfavorable trade indicator is the second color whenever
  the second closing value trend is lower than the second opening value trend.
  [column 22 lines 21- column 22 line 62]

6.   As regards claim 2, Helweg discloses wherein the opening value is an opening

price and the closing value is a closing price. [column 1 lines 49-61]

7.   As regards claim 5, Helweg discloses wherein the first color is green. [column

22 lines 21- column 22 line 62]

8.   As regards claim 7, Helweg discloses wherein the second color is red. [column

22 lines 21- column 22 line 62]

9.   As regards claim 8, Helweg discloses wherein the first visual

favorable/unfavorable trade indicator displays the first time interval and the

second visual favorable/unfavorable trade indicator displays the second time

interval. [column 28 lines 55- column 30 line 47]

10.   As regards claims 9 and 26 , Helweg discloses further comprising the step of

displaying the first opening value trend as a first line and the first closing value

trend as a second line in a graph. [column 28 lines 55- column 30 line 47]

11.   As regards claims 10 and 27, Helweg discloses further comprising the step of

displaying a list of information about a point selected on either the first line or the

second line. [column 2 lines 57-02]

12.   As regards claim 12, Helweg discloses wherein the first opening value trend is

calculated without using the first opening value from the most recent first time

interval within the time period. [column 9 lines 62-09]

13.   As regards claims 13 and 29, Helweg discloses further comprising the steps of:

selecting a market information source; and communicably connecting to the

market information source. [column 28 lines 11-26]

14.   As regards claims 14 and 30, Helweg discloses further comprising the step of

executing a trade involving one of the options for the underlying investment.

[column 19 lines 60-04]

15.   As regards claims 15 and 31, Helweg discloses further comprising the step of

simulating an execution of a trade involving one of the options for the underlying

investment. [column 19 lines 60-04]

16.   As regards claims 17 and 33, Helweg discloses further comprising the step of

searching for one or more investment trading opportunities based on one or more

search criteria. [column 4 lines 23-42]

17.   As regards claims 18 and 34, Helweg discloses further comprising the step of

selecting the first time interval or the second time interval. [column 16 lines 22-

49]

18.   As regards claim 19, Helweg discloses wherein the first time interval is a first

preset time interval and the second time interval is a second preset time interval

based on a user profile. [column 28 lines 55- column 30 line 47]

19.   As regards claims 20 and 35, Helweg discloses further comprising the step of

repeating the steps of obtaining the market information, calculating the opening

value trends and the closing value trends, and displaying the visual

favorable/unfavorable trade indicators for a set of different time intervals. [column

28 lines 55- column 30 line 47]

20.   As regards claim 21, Helweg discloses wherein the set of different time intervals

comprises daily, weekly and monthly intervals. [column 22 lines 21- column 22

line 62]

21.   As regards claims 22 and 36, Helweg discloses further comprising the step of

repeating the steps of obtaining the market information, calculating the opening

value trends and the closing value trends, and displaying the visual

favorable/unfavorable trade indicators for two or more investments. [column 19

lines 34-60]

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

23. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Helweg M.W. (US Pat .No. 7461023) and further in view of Kam K (PGPub 2001/0042037).

24. As regards claim 3, Helweg discloses calculating a first opening value trend for the first time intervals using a market trend indicator and the first opening values for the underlying investment, and a second opening value trend for the second time intervals using the market trend indicator and the second opening values for the underlying investment; [column 2 lines 29-36]

Helweg does not disclose wherein the opening value is an opening trading volume and the closing value is a closing volume.

Kam discloses wherein the opening value is an opening trading volume and the closing value is a closing volume. [0052]

It would have been obvious for a person of ordinary skill in the art at the time of the invention was made to use Kam in the device of Helweg .The motivation would have been to provide useful information to the member while monitoring the stock portfolio.

25. Claims 11 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helweg M.W. (US Pat .No. 7461023) and further in view of Olsen (PGPub 2002/018134).

26. As regards claims 11 and 28 , Helweg M.W.discloses displaying a first visual favorable/unfavorable trade indicator for the first time intervals based on a comparison of the first opening value trend to the first closing value trend for the underlying investment, wherein the first visual favorable/unfavorable trade indicator is a first color whenever the first closing value trend is greater than the first opening value trend and the first visual favorable/unfavorable trade indicator is a second color whenever the first closing value trend is lower than the first opening value trend; and [column 2 lines 50-56]

Helweg M.W. does not disclose wherein the market trend indicator comprises one or more regression algorithms selected from: stochastics, relative strength, directional movement, commodity channel, simple average, exponential average,

weighted average, MACD (simple), MACD (exponential), momentum/ROC, midrange, William's %R, parabolic stop, volatility stop, trailing stop, high low stop, Bollinger Bands, Keltner Channel, uniform channel, regression channel, swing lines, cycle forecast, on balance volume, overlay chart, point & figure, moving average, moving linear regression, upper envelope, lower envelope, %K, %D, %D slow, %D averaged, %R, RSI, momentum, acceleration, moving average oscillator, moving average momentum, moving average convergence-divergence oscillator, moving average convergence- divergence, MACD signal line, commodity channel index, rate of change in prices, on balance volume variance, standard deviation, volatility ratio, volatility, skew, kurtosis, Williams Accumulated Distribution, Arm's Ease of Movement, plus directional indicator, minus directional indicator, directional movement and average directional movement.

Olsen discloses wherein the market trend indicator comprises one or more regression algorithms selected from: stochastics, relative strength, directional movement, commodity channel, simple average, exponential average, weighted average, MACD (simple), MACD (exponential), momentum/ROC, midrange, William's %R, parabolic stop, volatility stop, trailing stop, high low stop, Bollinger Bands, Keltner Channel, uniform channel, regression channel, swing lines, cycle forecast, on balance volume, overlay chart, point & figure, moving average, moving linear regression, upper envelope, lower envelope, %K, %D, %D slow, %D averaged, %R, RSI, momentum, acceleration, moving average oscillator,

moving average momentum, moving average convergence-divergence oscillator,

moving average convergence- divergence, MACD signal line, commodity

channel index, rate of change in prices, on balance volume variance, standard

deviation, volatility ratio, volatility, skew, kurtosis, Williams Accumulated

Distribution, Arm's Ease of Movement, plus directional indicator, minus

directional indicator, directional movement and average directional movement.

[0291]

It would have been obvious for a person of ordinary skill in the art at the time of

the invention was made to use Olsen in the device of Helweg M.W.   The

motivation would have been to analyze to independent variables with a common

dependent variable so as to make inferences and projections.

27.   Claims 16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Helweg M.W.   (US Pat .No. 7461023) and further in view of Lee Andre S

(PGPub 2005/0187866).

28.   As regards claim 16, Helweg discloses calculating a first opening value trend for

the first time intervals using a market trend indicator and the first opening values

for the underlying investment, and a second opening value trend for the second

time intervals using the market trend indicator and the second opening values for

the underlying investment; [column 2 lines 29-36]

Helweg does not disclose further comprising the step of calculating a potential

tax liability for an execution of a trade involving one of the options for the

underlying investment.

Lee discloses further comprising the step of calculating a potential tax liability for

an execution of a trade involving one of the options for the underlying investment.

[0055]

It would have been obvious for a person of ordinary skill in the art at the time of

the invention was made to use Lee in the device of Helweg .The motivation

would have been to determine the net income from the trade.

29.   Claims 23, 24, 37 and 38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Helweg M.W.   (US Pat .No. 7461023) and further in view of

Friesen R.W.et al (Patent No.:6993504).

30.   As regards claims 23 and 37, Helweg discloses displaying a first visual

favorable/unfavorable trade indicator for the first time intervals based on a

comparison of the first opening value trend to the first closing value trend for the

underlying investment, wherein the first visual favorable/unfavorable trade

indicator is a first color whenever the first closing value trend is greater than the

first opening value trend and the first visual favorable/unfavorable trade indicator

is a second color whenever the first closing value trend is lower than the first

opening value trend; and [column 2 lines 50-56]

Helweg does not disclose further comprising the step of updating the opening

values, the closing values, the opening value trends, the closing value trends and

the visual favorable/unfavorable trade indicators.

Friesen discloses further comprising the step of updating the opening values, the

closing values, the opening value trends, the closing value trends and the visual

favorable/unfavorable trade indicators. [column 3 lines 15-41]

It would have been obvious for a person of ordinary skill in the art at the time of

the invention was made to use Friesen in the device of Helweg .The motivation

would have been to provide the customer with the most recent data available.

31.   As regards claims 24 and 38 , Helweg discloses displaying a first visual

favorable/unfavorable trade indicator for the first time intervals based on a

comparison of the first opening value trend to the first closing value trend for the

underlying investment, wherein the first visual favorable/unfavorable trade

indicator is a first color whenever the first closing value trend is greater than the

first opening value trend and the first visual favorable/unfavorable trade indicator

is a second color whenever the first closing value trend is lower than the first

opening value trend; and [column 2 lines 50-56]

Helweg does not disclose further comprising the step of signaling a user

whenever any of the visual favorable/unfavorable trade indicators change.

Friesen discloses further comprising the step of signaling a user whenever any of

the visual favorable/unfavorable trade indicators change. [column 18 lines 41-52]

It would have been obvious for a person of ordinary skill in the art at the time of the invention was made to use Friesen in the device of Helweg. The motivation would have been to alert the customer of trade changes as they occur.

Response to Arguments

32. Applicant's arguments, see Remarks, filed 10/27/2008, with respect to the rejection(s) of claim(s) 1-3,5,7,-39 under Brumsfield et al have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Helweg (Patent No: 7461023).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN A. ANDERSON whose telephone number is (571)270-3327. The examiner can normally be reached on Monday through Friday 8:00 to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

/John A Anderson/   John A Anderson

Examiner, Art Unit 3696   Examiner

                                                        Art Unit 3696

/J. A. A./

Examiner, Art Unit 3696 03/12/2009

/Daniel S Felten/

Primary Examiner, Art Unit 3696